

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOHAMED JOHN AKHTAR and LA BUCA
RESTAURANT, INC. d/b/a SWING 46 JAZZ
AND SUPPER CLUB,

Plaintiffs

-against-

ERIC M. EISENBERG and JOHN AND JANE
DOES ONE THROUGH THIRTY,

Defendants

23-CV-6585 (JGLC) (VF)

**ERIC M. EISENBERG'S LETTER MOTION TO COMPEL PLAINTIFFS TO CEASE
AND DESIST FROM HARASSMENT, INTIMIDATION, DISRESPECT,
DISCOURTESY, VIOLENCE, AND THREATS OF VIOLENCE TOWARDS THE
UNDERSIGNED, AND SEEKING THE IMPOSITION OF MONETARY AND NON-
MONETARY SANCTIONS AGAINST PLAINTIFFS AND FOR MY PROTECTION**

Dear Magistrate Judge Figueredo,

Initially, I thank this Court for its March 21, 2025 clarification that the Court “expects litigants to behave courteously and with respect towards one another [and] will not tolerate harassing or intimidating behavior by any litigant towards another litigant, and the failure to act in a respectful manner may result in the imposition of monetary sanctions.” (D.I. 161, page 2) (emphasis added).

Particularly in light of this clarification that the Court “will not tolerate” such behavior, I write to ask that this Court compel Plaintiffs to cease and desist from harassment, intimidation, disrespect, courtesy, violence, and threats of violence towards the undersigned, and that the Court impose monetary and non-monetary sanctions against Plaintiffs based on their engagement in all of this behavior.

For purposes of this letter motion, I will highlight two of the multiple incidences in which Plaintiffs have engaged in such behavior during the course of this litigation and been documented doing so – in each case to interfere with me lawfully obtaining evidence of the Plaintiffs’ illegal noise setup, of relevance to the instant lawsuit, from the public sidewalk.

As shown at Enclosed Eisenberg Declaration, ¶ 2 (including automatically timestamped video provided at <https://photos.app.goo.gl/FxkNbWYLOmdYAGFt6>), on September 12, 2023, subsequent to the filing of the original complaint (D.I. 1), at approximately 4:43 PM, I was standing outside of the Swing 46 Jazz and Supper Club, on the public sidewalk, recording music coming from the Swing 46 establishment that was audible on the public sidewalk. An individual

I now understand to be Plaintiff Mohamed John Akhtar approached me and said “What are you doing? What the fuck are you doing? What the fuck you always do? Get out! Get the fuck out of my face! Get out! Fucking loser. Get the, get the, call the police right now. Call the cops! I’m gonna call the fucking cop on this guy.” *Id.* Plaintiff Akhtar then proceeded to hit me with his cellular phone. *Id.* Plaintiff Akhtar then continued “Get the fucking phone out! Call the cop!” *Id.*

As shown at Enclosed Eisenberg Declaration, ¶ 3 (including automatically timestamped video provided at <https://photos.app.goo.gl/j19WrUojXzEMBnef6>), on September 12, 2023, at approximately 4:44 PM, Plaintiff Akhtar, chasing me down the sidewalk, continued “I’m gonna call the cop on you, you stupid motherfucker! You’re disturbing my establishment!” Shortly later, he continued “What the fuck is wrong with you, you motherfucking loser?” *Id.* A bit later he continued “You are a disgusting pig. Take that, you stupid motherfucker. Get out of this neighborhood! Nobody broken any fucking law.” *Id.* A few moments later, he continued, “Get out of my fucking... [coming at me] Hey! Get the fuck out of my [inaudible]. Don’t come near this motherfucking property [gesticulating at Swing 46]! Okay, tape that!” *Id.* Shortly afterward, at a few seconds after 4:46 PM, **Plaintiff Akhtar, in an apparent attempt to intimidate me, threw a dog down a flight of stairs into a metal table or chairs, against which the dog made a loud sound.** *Id.* A moment later, Akhtar then ran across the street towards me, yelling “Get the fuck out of here! Get out! Get out!” *Id.* These words and actions by Akhtar upset me greatly, especially given my love for dogs and my diagnosed Post-Traumatic Stress Disorder (PTSD). Enclosed Eisenberg Declaration, ¶ 4.

As shown at Enclosed Eisenberg Declaration, 5 (including automatically timestamped video provided at <https://photos.app.goo.gl/p6BoBrTXY62DQm157>), on October 9, 2024, at approximately 3:53 PM, I was again outside of the Swing 46 Jazz and Supper Club, on the public sidewalk, recording music coming from the Swing 46 establishment that was audible on the public sidewalk. A barefoot individual that I now understand to be Sarah Hayes, an employee of Plaintiff Swing 46, ran up to me and began to harass me, stating as follows: “Eric Eisenberg. How you doing, great to see you baby! How’s it going? How you been? Hi! Hi! [waving her hand in my face] How are you? Hi! [continuing waving her hand in my face] Yea, you still up there? Hi! [continuing waving her hand in my face] Anyway, [continuing waving her hand in my face] ooh you’re such a big man! You’re so scary, oooooh...” *Id.* Ms. Hayes then proceeded to hit my hand and/or grab or my phone. *Id.* Ms. Hayes then continued “Get away from me, go away, you’re such a nasty person. Alright, sorry, do you talk? Do you speak? Are you just busy being a lawyer? Are you busy being in Florida? Are you busy trying to, uh, harass people? That’s what you’re doing. Okay.” *Id.*

The individual that I now understand to be Plaintiff Akhtar then came up to us and stated to me “What are you doing here?” *Id.* Plaintiff Akhtar then raised his cellular phone as if about to hit me again with it. *Id.* A few moments later, referring to me, at about 3:54:10 PM, Plaintiff Akhtar stated “I could just spit on his face,” while Ms. Hayes stated “He has no life.” *Id.* At about 3:54:15, Plaintiff Akhtar shouted “loser!” *Id.* Ms. Hayes continued “Yea, it’s OK, if this makes you feel good, living in your three million, two million dollar apartment down the street, we know.” *Id.* Shortly thereafter, at around 3:54:34 PM, Plaintiff Akhtar pointed his cellular phone as if to record me, and demanded “Why don’t you show your face?” *Id.* Plaintiff Akhtar then handed the cellular phone to Ms. Hayes, who continued to record me, stating “Hi! [now in sing-song] whooooooo, it’s Eric Eisenberg. It’s Eric Eisenberg! Oh, it’s lovely Eric Eisenberg, the menace of Hell’s Kitchen. He lives in his multi-million dollar house and he kind of thinks he’s a lawyer or something, he’s doing

something for society . . .” *Id.* Then, at around 3:55:05 PM, Ms. Hayes began rapidly moving her phone up and down and from side to side in my face, shouting “scary boy, scary boy, whoooohooo, oooh, oooh, oooh, oooh, here’s Eric Eisenberg.” *Id.* Ms. Hayes continued, “yeah, we make fun of you now, because you’re such a rat. You’re such a rat, is that... OK I can, I can stand here all day with you. Alright, hi [to passersby] he’s a menace, menace of, menace of Hell’s Kitchen. Right here. He’s a baaaaaad man. . . . [responding to question from passersby] It’s real, he really is the menace of [Gesticulating to me still standing on the public sidewalk and speaking to a security guard] Yup, hi sir, this gentleman is trespassing. He came onto our property, he knows he’s not supposed to be here. We’d like him to leave.” *Id.* A few moments later, Ms. Hayes, continuing to approach and circle me and point the cell phone in my face, continued “First of all, I think you’re insane. You’re like crazy. And, everyone knows about you.” *Id.* I then, at about 3:56:30 PM, attempted to walk a distance away to the East, and Ms. Hayes followed me. *Id.* Ms. Hayes continued “OK, yeaaaah, there he goes, big bad Eric Eisenberg. Eric Eisenberg. How’s Florida working out for you? I guess you got out for the Hurricane. Yea, so you living there or you living here now? [moving cell phone back and forth in my face] Which one did you decide on? [more aggressively moving phone back and forth and shoving it closer to my face] Ha ha, ha ha, we see you. You really should get some better clothes too, you’re really not, you’re really just, yea...” *Id.* A few moments later she continued “Eric, get a life man . . . cuz’ I know you and your wife enjoy like outdoor concerts, you travel all over the world, you, um, do all these like, y’know, expensive trips with all the money that you’ve made off of the city.” *Id.* Shortly later, at around 3:57:49, Hayes continues “but you, young man . . . He’s the menace of [following me and pointing phone at me] there you go, but you really should shave and you should dress up because you’re not an attractive man. I mean the way you dress, you’re a slob. [to security guard] He lives in a multi-million dollar apartment, he makes money off the city, so, it’s OK, it’s O. K. Hi Eric! Hi! Hi to all of Eric’s friends that are, you know. . . OK. [following me around a tree and to the West down the block] Here you go. [sing-songy again] Whooo oooh oooh oooh. Here you go, bye bye big boy. Big boy! Eric Eisenberg. You’re a big boy! You’re a big boy! That’s right, he’s a big boy. You’re a big man. [trailing off as I travel to the East across the street from her]” *Id.*

Taken in their totality, the incidents just on these two days clearly amount to harassment, intimidation, disrespect, discourtesy, violence, and threats of violence towards the undersigned by both Plaintiff Akhtar, and by Plaintiff La Buca Restaurant, Inc. d/b/a Swing 46 Jazz and Supper Club (through its agents Akhtar and Hayes). This court should, consistent D.I. 161, page 2, not tolerate such behavior, and issue appropriate sanctions against Plaintiffs and for the protection of me.

Dated (and executed in):
March 24, 2025 (Miami, Florida)

Respectfully submitted,

s/ Eric Eisenberg
ERIC M. EISENBERG
(646) 801-6705
1300 South Miami Avenue
Unit 1408
Miami, FL 33130
ericeis@gmail.com

cc: all parties on ECF

(submitted with accompanying declaration of Eric M. Eisenberg)